

**Revised Remarks of Thomas J. Keith, District Attorney
21st Prosecutorial District (Forsyth County) NC
Submitted to
The Government Reform Committee's Subcommittee on
Criminal Justice, Drug Policy and Human Resources
Hearing Held in Winston-Salem, NC
On April 12, 2006**

**Re: "Gangs, Fraud and Sexual Predators: Struggling with the Consequences
of Illegal Immigration"**

"It is difficult to look at illegal drugs without looking at criminal gangs without looking at illegal aliens" – anonymous federal law enforcement analyst

Introduction: Status of Gangs in Forsyth County, NC

The April 2003 report by the National Intelligence Center and the Drug Enforcement Administration (DEA) entitled "NC Drug Threat Assessment" found:

"Mexican criminal groups are the primary transporters of powdered cocaine into and through North Carolina..."

Mexican criminal groups, the dominant wholesale distributors of marijuana in the state [NC] transport *multi-ton* shipments of Mexico-produced marijuana into North Carolina in tractor trailers...

Most of the Methamphetamine available in North Carolina is produced in Mexico, California and Southwestern states..."

The 2006 "National Drug Threat Assessment" report by the DEA continued the Mexican drug connection:

"Mexican drug trafficking organizations and criminal groups are the most influential drug traffickers in the US and their influence is increasing. They are the predominant smugglers, transporters, and wholesale distributors of cocaine, marijuana and methamphetamine and Mexico-produced heroin in the US;"

This assessment is also true for most of Forsyth County's cocaine, marijuana and methamphetamine in the opinion of local law enforcement.

The onrush of Hispanic migration in the decade of the 1990's increased North Carolina's Hispanic population by 831%. It has grown at 37% a year since 2000. Hispanics were 6.4% of Forsyth County's population of 320,919 in 2000.

Locally, as recently as March 17, 2006, there were 86 validated gang members in the county. About 57% were Hispanic, 42% of gang members were between the ages of 18 and 23 and 96% were male.

Anecdotally, it is estimated by local law enforcement that for each validated gang member, there would be 8 to 10 others that are not yet validated, having not been brought to the attention of law enforcement to the point where they could be identified.

The District Attorney's Office is familiar with scores of major incidences of serious crime involving gang members including: a drive by accidental shooting of a 6 year old child by a rival gang; a retaliatory gang shooting that accidentally paralyzed an innocent neighbor; a motor vehicle homicide committed by one gang member on another gang member; a shooting at deputies trying to make an arrest arising out of another shooting at a bar; and intimidation of witnesses of another gang shooting.

Local Hispanic gangs identified were 18th Street, Cuaji 13, Latin Kings, Los Crooks, MS-13, Rubia 18, Sur 13, Vatos Locos, Villanos 13. Other white and black gangs identified were Aryan Nation, Bloods, Crips, The Fam, Folk Nation, Hell's Angels and others.

Local law enforcement have developed information sharing groups such as MAGNET (Multi-Agency Gang Network), where the Sheriff's School Resource Officers and members of the District Attorney's Office, Winston-Salem Police Department (WSPD), Kernersville Police Department (KPD) and Forsyth County Sheriff's Office (FCSO) meet with other officials including the FBI to identify and validate local gang members.

The SBI has plans to install a statewide database GANGNET this summer, but until then, the 3 local agencies enter gang data into a common database.

There are no gang enhancement statutes in North Carolina. Although HB 50 "The Street Gang Protect Act" passed the NC House last year, its fiscal note of \$130 million for prison construction and \$36 million a year for recurring costs have prevented its passage in the NC Senate.

The Forsyth County District Attorney's Office has begun to identify gang members for enhanced state prosecution at its ZAP (Zero Armed Perpetrators) weekly meetings. At ZAP meetings, state and federal prosecutors and law enforcement identify illegal gun violators for enhanced prosecutions. Since its inception in July 2000 until spring 2005, ZAP has reviewed over 4,200 offenders in which a gun was used or threatened to be used, including all misdemeanors and felonies. The number of Hispanic names has grown rapidly on the monthly ZAP docket.

A study by Winston-Salem State University (WSSU) determined that 11.2 % of the ZAP cases from its inception in 2000 until the spring of 2005 were committed by Hispanics although they were only 6.4% of Forsyth's reported population.

A review of 4 summer months of ZAP dockets in 2001 showed that 14.8% of the illegal gun cases presented were offenders bearing Hispanic surnames. By 2006, 28.7% of the ZAP cases belonged to persons with Hispanic surnames. However, it should be noted that it is a federal violation for an illegal alien to possess a firearm. The Hispanic population in NC for the year 2000 represented 4.7% of all North Carolinians. They were under represented in the NC Department of Corrections since only 1,070 Hispanics entered prison in 2005 out of a total of 26,603 admissions, or 4.0% of the prison entries that year. However, 764 of the prison entries for 2005 were for drug trafficking; of those 252 were Hispanic or 33%, which reflects an over representation in the category of drug trafficking convictions by 700%.

I. Who Brings Dope In?

1. Narcotics Officers from Forsyth's 4 major local agencies feel 90 – 98% of all drugs on the street go back to Hispanic importers; most were illegal aliens
2. Out of state Hispanic Gangs are behind most of the illegal drugs that are brought into Forsyth County; local gangs here are re-forming into more organized groups who will then bring more drugs into the county in the future.

II. What Amount of Drugs?

1. The WSPD's *number* of arrests for narcotics increased from 1,392 in 2001 to 1,506 in 2005; misdemeanor arrests increased from 3,122 to 3,516 in 2005. The WSPD is asking for an increase in its budget for 20 new officer positions to create a "street crimes" unit to deal with the increase of drugs, gangs and the crime resulting from both. That is about \$1 million a year budget increase.
2. Winston-Salem is also a trans-shipping point for out of state drug traffickers. The *amount* of drugs has increased way out of proportion to the number of arrests; based on the narcotics arrests of the Sheriff's Office's and its highway interdiction team (ACE), the following has occurred:
 - (a) 2003 seizures: (6 months only) 4802.2 grams of cocaine, 15 grams of heroin, 155 lbs of marijuana, and other drugs valued at \$950,515; plus \$350,347 in currency.
 - (b) 2004 seizures: 48,164 grams of cocaine, 265.9 grams of crack, 41 grams of heroin, 185.6 lbs of marijuana, and other drugs valued at \$9,300,483.50; plus \$432,102.87 in currency.
 - (c) 2005 seizures: 172,687.2 grams of cocaine, 799.1 grams of crack, 149.7 grams of heroin, 2,600 lbs of marijuana, 441 marijuana plants, and other drugs valued at \$40,561,831.50; plus \$962,118.66 in currency.
3. Week of March 27th \$90,000 seized – no dope – FCSO
4. Week of March 27th 200 lbs of Marijuana and \$80,000 cash and guns seized – WSPD
5. Feb '05 \$252,000 and couple of kilos of cocaine seized
6. Few years ago, WSPD seized 128 kilos with trademark on each kilo

7. Routine traffic stop by WSPD, seized 41 kilos without any surveillance, prior investigation, prior information or “hot tip”
8. Week of March 27th follow hotel surveillant to Surry County – seized 6 ½ lbs “Ice” – crystal meth – joint effort between multiple agencies
9. One can buy dope from anyone; WSPD asked a random person off the street where to buy drugs and followed lead to 200 lbs of Marijuana
10. WSPD seized 9 Marijuana bales weighing 8 to 15 lbs each bale; each bale was numbered; highest number on bale seized was 316; remaining bales already delivered elsewhere on route
11. A lot more heroin on street
12. Three Forsyth County ADAs have 6.35 trafficking cases a week of court; 31% of all Forsyth’s felony cases are for drug violations. Forsyth sent 80 drug traffickers to prison in last 12 months and 208 non-drug traffickers. That is 9.9% of the entire state’s DOC trafficking admissions but only 3.9% of non-trafficking admission. Forsyth County has only 3.7% of the state’s population.

III. How Does It Get Here?

1. Bus, carried by “mules”
2. Car – secret compartments
One truck stopped by the Sheriff; when stopped 340 lbs of marijuana plus \$60,614 in currency were seized; had false compartment in ceiling; hauled cabbage from Mexico to points in US; according to EPIC records, the trailer had been stopped by law enforcement 34 times and had made over 100 trips across the border to the US
3. Airport – Smith Reynolds Airport has no law enforcement security due to its lack of commercial flights; lowest level for security purposes
 - (a) No flight plan is necessary for non-commercial flights
 - (b) Impossible for local law enforcement to meet incoming flights; get in your plane and bring anything you want to Winston-Salem without risk of law enforcement inspection
 - (c) TSA rules intimidate local law enforcement from acting for fear of being fined by TSA

IV. How Does Cash Get Back Out?

1. Wire transfers: 4 or 5 wire transfer companies mostly used by Hispanic customers operate in Forsyth County other than Western Union
2. Need method to monitor companies; suggest:
 - (a) Lower level for CTR reporting if by wire
 - (b) Require photo ID and thumbprint of sender of large amounts of cash
 - (c) Require electronic internet notice to Police of large amounts transferred

V. What Help Can Federal Authorities Provide for Federal Cases?

1. More prosecutor positions for US Attorneys Office to be assigned exclusively to drug cases
2. More positions for ATF agents: 9 handle 24 NC counties

3. More positions for DEA agents: 7 handle 24 NC counties
4. More positions for ICE agents: 3 handle 24 NC counties
5. More positions for US Marshals: 17 handle 24 NC counties
6. More positions for US District Court Judges, Clerks, Court Reporters, etc.
7. More courtrooms
8. More prison beds

VI. What Help Can Federal Authorities Provide to Local Officers and Prosecutors?

1. Provide funds to pay moving expense and any wage differential supplement for Spanish speaking law enforcement officers from Texas, New Mexico, Arizona and Florida to come to Forsyth County to work in law enforcement
2. Federal legislation allowing properly licensed Spanish speaking prosecutors to move to NC who could immediately start prosecuting in state court without meeting NC Bar residency requirements, but are otherwise qualified
3. Provide funds to hire more local law enforcement officers to be directed at drug trafficking. The following is the approximate number of local officers working drugs (and gangs) in Forsyth County:
 - (a) Kernersville Police Department (4)
 - (b) ABC (6)
 - (c) WSPD (16); also 3 dedicated gang officers
 - (d) Forsyth County Sheriff's Office (5); also 25 School Resource Officers (SROs) providing gang intelligence from schools
 - (e) Forsyth County District Attorney's Office (3 drug prosecutors, plus 2 prosecutors and one staff position added gangs to their already heavy caseloads)
4. Provide funds to allow cross-designation of local officers to be ICE, DEA, Marshal and ATF agents; those cross designated cannot be used outside their home counties except on locally originated cases
5. Establish Forsyth County as a HIDTA (High Intensity Drug Trafficking Area) site
6. Provide federal funds to build state prisons @ \$79,000 bed plus \$22,500/year to maintain prisons for drug offenders; or, cross designate federal beds for state drug trafficking prisoners
7. Provide federal funds for more drug treatment courts
8. Provide federal funds to provide space for ICE prisoners in Forsyth County jail as well as jail beds for other federal prisoners awaiting trial
9. Provide federal funds to allow a state 924(c) type of sentence enhancement (5 years) if a gun is used in a drug crime (Note: it would increase state prison beds by 4,000 according to a state NC legislative fiscal note in 2004 if all violent [A-E] crimes [about 12% of prison population] were enhanced by 5 years if a gun was used)
10. Establish local drug testing facility at WSSU to speed up the weighing and testing of drugs; marijuana especially dries out if not weighed quickly some times lowering the state punishment. Also, speeds up trials if expert toxicologist is available locally instead of waiting for one to come from the

SBI Lab in Raleigh who may have to be in court in other counties on the same day.

11. Supplement state prosecution by providing permanent funds to hire state prosecutors in order to establish permanent state investigative grand juries for drug trafficking investigations
12. On future federal grants provide that there be no cash match requirement for any NC prosecutor's grant. North Carolina District Attorneys have no local budget or funds.
13. Contact NC prosecutors before federal grants concepts are created; see what we need, not tell us what we can get
14. Through legislation give local officers administrative subpoena power in drug cases for out of state records such as phone, credit card records, etc.
15. Allow local law enforcement to patch into ICE database for *instant* fingerprint ID; state takes several days to match a fingerprint
16. Provide a common database to US Attorneys Offices on cases that originate in state court to prevent violation of Petite Policy of USA by state disposing of cases before federal indictments, thus barring federal prosecution without DOJ permission
17. Provide cash supplement to detention facilities in order to hire staff to fingerprint all Class I misdemeanor arrestees (DWI, NOL, etc.)
18. Funds to allow local law enforcement to "read" license information on back of NC driver's licenses – now unreadable since it is in code. This would allow officers to see if license is altered by comparing information now in code. Only local ABC stores can "read" such information. Many Hispanics "made up" social security numbers before DMV tightened requirements according to local Hispanic newspaper article. These licenses are now expiring and the applicants may not recall false social security numbers.
19. Expedite legislation on a uniform national drivers license – all states should have the same info on back of license in code
20. Provide cash supplement for state prosecutor positions to entice Spanish speaking prosecutors from Texas, New Mexico, Arizona and Florida to move to Forsyth County; pay moving expenses.
21. Provide Loan Forgiveness Funds for career state prosecutors with large law school debt
22. Provide cash supplement to state drug prosecutors if they stay career drug prosecutors
23. Provide federal funds that would allow a state/local District Attorney to retain experienced drug prosecutors by matching any offering salary at the US Attorney's Office seeking to hire away a state prosecutor for a higher salary
24. Allow local officers to be cross designated as ICE agents to "write cases" to deport illegal aliens in possession of a firearm or felony amount of illegal drugs; require federal government to pay county jail per diem pending deportation and pay local transportation costs if Marshals not available
25. Provide legislation to allow state prosecutors to read federal grand jury testimony when parallel state and federal grand juries exist simultaneously examining the same criminals

26. Provide financial assistance to Sheriffs of rural counties to hire more law enforcement positions to be used in the development of county narcotics and gang units
27. Provide funds for multi-county drug task forces to Sheriffs
28. Provide federal assistance for “buy money” that “can walk” since the amount and price of drugs needed to be bought by undercover agents is going up. In Forsyth 2 oz of cocaine is the minimum buy now, that costs \$1,200 to \$1,600.
29. Provide federal funds to hire Spanish speaking interpreters for trials

VII. Other

1. Requirement that all subpoenaed telephone toll records be delivered in data entry format instead of “hard copy”; provide funds to pay for hard copy of toll records in the interim
2. Legislation to make it illegal to add hidden compartments to any vehicle
3. Increase punishment of low level offenders deported so that upon illegal re-entry they are punished as severely as re-entry aggravated felons
4. Require schools to notify law enforcement of enrollment into school of suspected illegal aliens; provide immunity from errors in “good faith” reporting
5. Provide funds for public relations campaign warning illegal immigrants they cannot possess a firearm in the US; deport all such violators referred by state prosecutors
6. Legislation that prevents driver’s license applicants from bringing their own interpreter to help take the written portion of the NC driving test
7. Legislation that directs IRS to cooperate with ICE agents when ICE requests a false ITIN card for undercover cases
8. Legislation that prevents the sale of “Boost” or “track” cell phones since there is no record of the calls made from the phone, thus preventing law enforcement from using telephone records in their investigation; also limit sale of track phone to prevent “smurfing” by drug dealers
9. Legislation that prevents NC Department of Motor Vehicles from accepting ITIN previously used to obtain NC driver’s license when applying for a renewal; this in effect prevents the prior illegal use of ITIN to be re-cycled into a new driver’s license.
10. Eliminate the “two strikes” an employer now gets before one can be imprisoned for hiring illegal alien. Permit active sentence for future violations of a first offense of hiring an illegal alien.
12. Subcontract local juvenile detention facilities for ICE; only two facilities are now available: Atlanta and Houston; illegal juveniles must be delivered the same day to a juvenile facility which is now practicably impossible; this puts juvenile (under 18) illegal gang members back on the street the same day they are picked up.

VIII. Future

As in California and most western states, Methamphetamine has replaced crack and powdered cocaine as the drug of choice. You get high cheaper and

stay high twenty times longer. As the recent North Carolina legislation that restricts the sale of pseudoephedrine has cut down local “mom and pop” meth labs, the Mexican “super labs” out of country will take over the production of methamphetamine. The gangs will then make and transport the meth to local gangs and non-gang dealers to sell.

Conclusion:

The rate of incarceration in America in the 1920’s was 110 persons per 100,000 of population. This was constant until about 1980 when cocaine and later “crack” cocaine hit America. The drug use epidemic has now pushed the rate of incarceration up to 714 per 100,000 by 2003.

The new threat of meth and gangs have already hit upon an already overwhelmed state and local criminal justice system which is barely struggling to keep afloat. New solutions to these threats could include having to:

1. Tighten up our borders to prevent illegal drugs from being imported;
2. Provide the entire state and federal criminal justice system with more law enforcement, prosecutors and prison beds, etc.
3. Develop state and federal joint task force on drug trafficking by gangs
4. Develop a system wide, successful template for community involvement for prevention of gangs and for intervention for individual gang members.